

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/245,625	02/05/99	BURCH	R

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HM12/1124

EXAMINER

WARREN T

ART UNIT	PAPER NUMBER
201	1

DATE MAILED:

11/24/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/245,625	BURCH ET AL.
Examiner	Art Unit	
Todd D Ware	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

1) Responsive to communication(s) filed on 13 September 2000.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:

1. received.

2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.

3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

## DETAILED ACTION

Receipt of request for extension of time (granted) and amendment both filed 9-13-00 is acknowledged. Claims 1-10, 24 have been amended as requested and claims 25-29 have been added. Claims 1-29 are pending.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill et al (5,098,711; hereafter '711).

'711 discloses nylon dental floss with chemotherapeutic agents such as penicillin, sodium fluoride, stannous fluoride, or chlorhexidine are impregnated within the nylon dental floss (C12, L11-13; C13, L51-52; C15, L16-20; Examples 1-4).

### ***Response to Arguments***

3. Applicant's arguments filed 9-13-00 have been fully considered but they are not persuasive. Applicants argue that '711 discloses that the active ingredients are loaded in the space around each of the nylon fibers. In response, it is submitted that polymers of '711 are the same as those of the instant claims and that the same process is used to incorporate the active ingredients into the fibers (i.e. placing the floss into a bath

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containing active agent). Accordingly, the active agent would be imbibed within the fiber.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burch (5,433,226; hereafter '226) in view of Hill et al (5,098,711; hereafter '711).

Applicants claim a fiber and methods of making the fiber where a fiber having a segmented core of soft and hard segments is impregnated with a chemotherapeutic agent such as penicillin, sodium fluoride, stannous fluoride, or chlorhexidine.

'226 teaches dental floss fibers having a segmented core of hard and soft segments made of the compounds of the instant claims. '226 also teaches that this dental floss has a break elongation and tensile strength within applicants' ranges. '226 does not teach impregnating these dental floss fibers with a chemotherapeutic agent.

'711 is relied upon for teaching nylon dental floss with chemotherapeutic agents such as penicillin, sodium fluoride, stannous fluoride, or chlorhexidine are impregnated within the nylon dental floss by dipping the floss into an agitated bath containing the therapeutic agent.

Accordingly, it would have been obvious to one skilled in the art at the time of the invention to combine the teachings of '226 and '711 with the expectation that the

antimicrobial agents of '711 would impart antimicrobial properties to the fibers of '226 with the motivation of providing an effective means to deliver these antimicrobial agents to the oral cavity or gingiva.

***Response to Arguments***

6. Applicant's arguments filed 9-13-00 have been fully considered but they are not persuasive. Applicants argue that '711 discloses that the active ingredients are loaded in the space around each of the nylon fibers. In response, it is submitted that polymers of '711 are the same as those of the instant claims and that the same process is used to incorporate the active ingredients into the fibers (i.e. placing the floss into a bath containing active agent). Accordingly, the active agent would be imbibed within the fiber.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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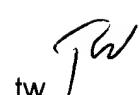
the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd D Ware whose telephone number is (703) 305-1700. The examiner can normally be reached on 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (703)308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are (703) for regular communications and (703) for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600  


  
tw  
November 22, 2000